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**VIA E-MAIL and U.S. MAIL**

**Re: *Notice of CEQA Violation and Intent to File CEQA Petition in the Matter of Riverside Agricultural Park ("Ag Park") Site Grading and Remediation, 2016 Soil Sampling and Excavation Work Plan, if Corrective Action is Not Taken (Envirostor Id No. 33490087)***

To the Department of Toxic Substances Control ("DTSC"):

On behalf of Center for Community Action and Environmental Justice, this letter serves as written notice of intent to file a Petition for Writ of Mandate under the provisions of the California Environmental Quality Act ("CEQA") against DTSC unless immediate corrective action is taken to comply with CEQA with respect to grading and remediation work at the "Ag Park" site, 7020 Crest Avenue in the City of Riverside, California, TM 28987. All work at the Ag Park site must be halted pending compliance with CEQA.

CEQA requires public agencies carrying out or approving a project conduct environmental review to determine if a project may have a significant effect on the environment, and to then reduce or eliminate any significant impacts. When DTSC acts as a responsible agency, it must review, comment on, and take into consideration any environmental document prepared by the lead agency to comply with CEQA, and then reach its own conclusions based on the document

prepared by the lead agency. When DTSC acts as a lead agency, it must prepare initial environmental review and further review as required.

CCAIEJ believes the City of Riverside was the lead agency for the Ag Park Project, with DTSC acting as a responsible agency. TM 28987 was originally approved by the City of Riverside with adoption of a Mitigated Negative Declaration in July 2003. Following approval, in 2003 a contractor breached a digester at the site, spilling sewage at the site and resulting in the need for significant cleanup work.

Subsequently, DTSC approved a 2006 Response Plan for the site. The approval of the 2006 Response Plan was based not on the 2003 MND but a new MND adopted by the City for an expanded project in 2006. DTSC prepared an Initial Study, and issued a Notice of Determination concurring with City's 2006 determination that no significant effects would result pursuant to CEQA with the incorporation of mitigation measures.

DTSC's agreement with Friends of Riverside Airport, LLC ("FRA") pursuant to the California Land Reuse and Revitalization Act of 2004 was also entered into after the City adopted the 2006 MND. The CLRRA agreement stated at term 5.6 that, "FRA has submitted to DTSC all documentation necessary for compliance with the California Environmental Quality Act (CEQA), Public Resources Code section 21000-21177."

The 2006 MND was subsequently overturned in litigation brought by Friends of Riverside's Hills in 2007, and its approval was rescinded by the City. The 2006 MND is thus no longer a valid document, and the determination is no longer conclusive on DTSC. (Guidelines § 15050(c)(1).) The operative environmental document for the Project is, thus, the 2003 MND.

DTSC has not reviewed the 2003 MND in approving either the 2006 Response Plan or the recently approved 2016 Soil Sampling and Excavation Work Plan. DTSC has not, additionally and in the alternative, taken any action to prepare environmental documents pursuant to CEQA for the 2016 Soil Sampling and Excavation Work Plan if a shift in lead agency designation has occurred.

DTSC has an obligation to review the 2003 MND before making approvals and acting upon the project, including before its recent approval of the 2016 Soil Sampling and Excavation Work Plan for the Ag Park site. Alternatively, DTSC has an obligation to itself prepare a new environmental document if it is now the lead agency for the cleanup, as the City of Riverside has alleged, if the cleanup is deemed a new project or if a shift in lead agency designation has occurred. (CEQA Guidelines § 15050, 15052.)

If DTSC is still deemed a responsible agency for the Ag Park Project, it has thus far failed in its duty to review the City's environmental document and certify that its decision-making body reviewed and considered the information contained in the Negative Declaration and agrees with the City's determination. It is unlikely such a determination could be made where the situation at the site has almost certainly changed in a manner triggering a subsequent EIR pursuant to CEQA Guidelines section 15162 since the time the City adopted the 2003 MND. Specifically, at the time of adoption of the 2003 MND, the digester at the site had not yet been breached, and the

spill at the site had not yet occurred. In addition, new information from the 2015 testing of the site now shows the extent of PCB contamination is substantially worse than previously suspected. Substantial additional soil removal at the site is vital to its remediation, and there is new information concerning the need to test off-site to determine if contaminants have migrated to surrounding areas. The impacts of this additional remediation work have not been addressed and necessitate subsequent environmental review pursuant to CEQA, Guidelines §§ 15162, 15050 (c) subds. (1), (2), (3).

On the other hand, if, as alleged by the City of Riverside, DTSC is/ has become the lead agency for the 2016 Soil Sampling and Excavation Work Plan and cleanup, DTSC has failed to conduct any environmental impact evaluation for the project as required by law. (CEQA Guidelines § 15050 subds. (a) and (c)(2).) Approval of the 2016 Soil Sampling and Excavation Work Plan is a new discretionary approval triggering CEQA.

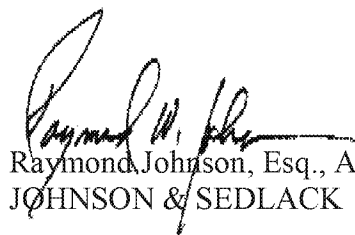
The utter lack of new or subsequent CEQA evaluation exists despite significant changes in the project (i.e., construction, grading/ excavation, and the ultimate consequence of extensive grading), project circumstances (i.e., the digester breach, problems with initial cleanup), and new information of substantial importance (i.e., the digester breach, newer information regarding the extent of PCB contamination, information regarding off-site health impacts and PCB migration, etc.). Each of these changes demonstrate new or more severe effects may occur compared to the City's adopted 2003 MND in terms of air quality/ health risks, GHGs, hazards/ hazardous materials, hydrology/water quality, construction noise and traffic, etc.

DTSC is acting in violation of CEQA in approving the 2016 Soil Sampling and Excavation Work Plan and determining that FRA may undertake cleanup at the site subject to DTSC oversight without first considering and disclosing to the public the environmental effects of its actions pursuant to CEQA. We respectfully request DTSC call for a halt of any work at the site pending this needed environmental review, and consult with the City of Riverside concerning such review.

In the event DTSC determines FRA may continue cleanup activities at the site, CCAEJ intends to exercise its available remedies under the law, which may include bringing litigation against DTSC for its failure to comply with CEQA.

Thank you for your consideration of these comments. We are more than happy to discuss this notice with you, and to collaborate to address the concerns raised therein. Please contact us any time via email at [ray@socalceqa.com](mailto:ray@socalceqa.com) or by phone at (951) 506-9925.

Sincerely,



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